

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEW MEXICO**

In re: LARRY C. MONTES AND  
SUSIE L. MONTES,

No. 13-10123-j7

Debtors.

**ORDER RESULTING FROM PRELIMINARY HEARING ON**  
**DEBTORS' MOTION TO COMPEL ABANDONMENT OF ASSETS**

Before the Court is Debtors' Motion to Compel Trustee's Abandonment of Assets pursuant to 11 U.S.C. §554. *See* Docket No. 37 (the "Motion"). The Court held a preliminary hearing on the Motion on January 5, 2015 at 9:30 a.m. Parties who appeared are listed below.

IT IS HEREBY ORDERED:

1. Final Hearing Date and Time. A final hearing on the Motion shall be held on **February 11, 2015 at 9:00 a.m.** in the Sandia Courtroom, 13<sup>th</sup> Floor, Dennis Chavez Federal Building and Courthouse, 500 Gold Avenue, SW, Albuquerque, New Mexico. Eight hours have been set aside for the hearing. Out of town parties and counsel may appear via video conference from the Court's video courtroom located in the Harold F. Runnels Federal Building and United States Courthouse, 100 N. Church Street, Las Cruces, New Mexico. Such persons must arrive at the video courtroom at least 15 minutes prior to the hearing.

2. Exhibits. No later than **January 30, 2015**, the parties shall file and serve a list of exhibits, and shall exchange exhibits, except for rebuttal exhibits that cannot reasonably be anticipated. Parties shall provide three copies of the exhibits to Chambers (one for the Court, one for the Court's law clerk, and one for witnesses appearing in Albuquerque) prior to commencement of the hearing. **Parties shall also coordinate to ensure that two copies of the exhibits (one for counsel appearing in Las Cruces and one for witnesses appearing in Las**

**Cruces) are available at the video courtroom.** Debtor's exhibits are to be marked with letters and other parties' exhibits with numbers. Each page of any multiple-page exhibit shall be numbered. Exhibits shall be accompanied by a list of the exhibits by number or letter and a brief description or name of each exhibit. If a party intends to proffer more than five exhibits, then the exhibits shall be tabbed and bound in three-ring binders or by some similar binding. The Court generally will exclude exhibits not exchanged as required. The parties shall be prepared to notify the Court at the beginning of the hearing which exhibits can be admitted into evidence by stipulation.

3. **Witnesses.** No later than **January 30, 2015**, counsel shall file and serve witness lists of persons the party expects to call to testify at the final hearing, except for rebuttal witness that cannot reasonably be anticipated. The lists must describe the subject matters on which each witness is expected to testify. The Court may exclude from testifying any witnesses not listed.

4. **Expert Reports.** If a party will offer expert testimony, an expert report must be included in the party's list of exhibits. Expert reports shall comply with Fed.R.Bankr.P 7026(a)(2)(B), which the Court deems applicable pursuant to its authority under Fed.R.Bankr.P. 9014. The deadline for a party to identify any expert witness to opposing counsel is **January 30, 2015.**

5. **Discovery.** The deadline to respond to written discovery is shortened to 20 days from the date of service. The notice period for deposition discovery is shortened to seven days.

6. **Trustee's Appearance by Video.** If the Chapter 7 Trustee wishes to appear at the final hearing by telephone or by video other than from the video courtroom,<sup>1</sup> his counsel must file a motion seeking such relief. The period to object to such a motion is shortened to three

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<sup>1</sup> At the preliminary hearing, the Trustee suggested he may seek to appear at the final hearing via Skype. The Court would not grant that relief because appearance at the final hearing via Skype is not practical or appropriate under the circumstances.

days, without any additional days for mailing. If a timely objection to the motion is filed, counsel for the Trustee must call chambers staff to request a final hearing on short notice. In the absence of any timely filed objections, counsel for the Trustee may submit an order granting the motion without further notice or a hearing.

7. Disposal of Exhibits. Unless an appeal is pending, 45 days after an order ruling on the Motion becomes final the Court may dispose of all hearing exhibits in its possession that have not been retrieved by the submitting party.



ROBERT H. JACOBVITZ  
United States Bankruptcy Judge

Copy to: January 8, 2015

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